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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,802	12/19/2001	Lyndon J. Hurley	21 - 1266	6093

7590 04/07/2003

Kaardal & Associates, PC
Attn: Ivar M. Kaardal
Circle - Suite 250
3500 South First Ave.
Sioux Falls, SD 57105-5802

EXAMINER

COHEN, AMY R

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 04/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,802

Applicant(s)

HURLEY, LYNDON J.

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Objections

1. Claims 5, 10, 12, 17 and 20 are objected to because of the following informalities:

Claim 5, "clean copy" line 2, the brackets are still in the claim.

Claim 10, line 3 "with each stop member is mounted" is awkward phrasing.

Claim 12, line 3 "with each slide member is mounted" is awkward phrasing and also should probably be --each hook member-- as there is only one slide member claimed.

Claim 17, line 6 "with the pair of stop members with each stop" is awkward phrasing; either deleted the "with the pair of stop members" or "with" before the "each stop member."

Claim 17, line 8-9 "with the pair of hooks with each hook" is awkward phrasing.

Claim 20, line 3 "the longitudinal direction" lacks proper antecedent basis in the claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-17, 19-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Whiteis (U. S. Patent No. 3,108,302).

Whiteis teaches a deflection gauge (10) with a dislodging system (12) comprising: an elongate deflection gauge (10) for measuring a minimum diameter of a lumen of a pipe; and

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dislodging means (12) for dislodging the deflection gauge from a lodged condition in the lumen of the pipe, the dislodging means being impactable against the deflection gauge while the deflection gauge is positioned in the lumen of the pipe (Col 2, lines 30-36 and lines 55-65).

Whiteis teaches the deflection gauge with dislodging system wherein the dislodging means is movably mounted on the deflection gauge such that the dislodging means is slidable with respect to the deflection gauge (Col 2, lines 32-65).

Whiteis teaches the deflection gauge with dislodging system wherein the dislodging system is movable with respect to the deflection gauge in a direction oriented substantially parallel to the longitudinal axis of the deflection gauge (Figs. 4 and 5).

Whiteis teaches the deflection gauge with dislodging system wherein the dislodging means is slidably movable with respect to the deflection gauge by pulling a cord when the cord is connected to the dislodging means (Col 2, lines 40-65).

Whiteis teaches the deflection gauge with dislodging system wherein the dislodging means impacts the deflection gauge in a direction oriented substantially parallel to the longitudinal axis of the deflection gauge (Figs. 1, 4, and 5).

Whiteis teaches the deflection gauge with dislodging system wherein the dislodging means includes a slide member (46) slidably mounted on the deflection gauge for sliding in a longitudinal direction oriented substantially parallel to the longitudinal axis of the deflection gauge, the slide member having opposite ends (Col 2, lines 32-39).

Whiteis teaches the deflection gauge with dislodging system wherein the deflection gauge includes a pair of spaced end plates (30, 32), and wherein the slide member has a length greater than a distance between outer surfaces of the end plates of the deflection gauge (Fig. 1).

Whiteis teaches the deflection gauge with dislodging system wherein the deflection means includes a stop member (40, 42) mounted on the slide member for limiting sliding movement of the slide member with respect to the deflection gauge.

Whiteis teaches the deflection gauge with dislodging system wherein the stop member is mounted at an end of the slide member (Fig. 1).

Whiteis teaches the deflection gauge with dislodging system wherein the stop member (40) and another stop member (42) are mounted on the slide member with each stop is mounted adjacent to an opposite end of the slide member (Fig. 1).

Whiteis teaches the deflection gauge with dislodging system wherein the dislodging means includes a hook (54, 56) mounted on the slide member for connecting a cord (60, 62) thereto.

Whiteis teaches the deflection gauge with dislodging system wherein the hook (54) and another hook (56) are mounted on the slide member with each slide member is mounted on an opposite end of the slide member (Fig. 1).

Whiteis teaches the deflection gauge with dislodging system wherein the deflection gauge comprises a pair of longitudinally separated end plates (30, 32) and a plurality of skid members (20) extending between the end plates (Fig. 1).

Whiteis teaches the deflection gauge with dislodging system wherein each of the end plates has an aperture (50) formed therein, and wherein the dislodging means comprises a slide member extending in and being freely slidable through the apertures of the end plates (Col 2, lines 32-39).

Whiteis teaches the deflection gauge with dislodging system wherein radially outermost surfaces of the skid members defining a calibrated diameter along a circumference of the deflection gauge (Col 1, lines 8-19 and Col 2, lines 3-20).

Whiteis teaches the deflection gauge (10) with dislodging system (12) comprising: a deflection gauge (10) for measuring a minimum diameter of a lumen of a pipe, the deflection gauge comprising a pair of longitudinally separated end plates (30, 32), each of the end plates having an aperture (50) formed therein and a plurality of skid members (20) extending between the end plates (Fig. 1), radially outermost surfaces of the skid members defining a calibrated diameter along a circumference of the deflection gauge (Col 1, lines 8-19 and Col 2, lines 3-20); and dislodging means (12) for dislodging the deflection gauge from a lodged condition in the lumen of a pipe, the dislodging means being impactable against the deflection gauge in a longitudinal direction of the deflection gauge while the deflection gauge is positioned in the lumen of the pipe (Col 2, lines 30-47 and Figs. 4 and 5), the dislodging means being freely slidable with respect to all portions of the deflection gauge in a direction oriented substantially parallel to the longitudinal axis of the deflection gauge (Col 2, lines 32-65).

Whiteis teaches the deflection gauge with dislodging system wherein the dislodging means comprises: a slide member (46) slidably mounted on the deflection gauge, the slide member being elongate with opposite ends (Fig. 1); a pair of stop members (40, 42) being mounted on the slide member with the pair of stop members with each stop member being mounted on an opposite end of the slide member (Fig. 1); and a pair of hooks (54, 56) being mounted on the slide member with the pair of hooks with each hook being mounted on one of the opposite ends of the slide member (Fig. 1).

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Whiteis teaches the deflection gauge with dislodging system wherein the deflection gauge has an outer calibrated diameter that is fixed in size and not adjustable (Col 1, lines 8-19 and Col 2, lines 3-20).

Whiteis teaches the deflection gauge with dislodging system wherein the dislodging means is freely slidable with respect to all portions of the deflection gauge in the longitudinal direction of the deflection gauge (Col 2, lines 32-65).

Whiteis teaches the deflection gauge with dislodging system wherein the dislodging means is impactable against the deflection gauge without varying a calibrated diameter of the deflection gauge along a circumference of the deflection gauge (Col 2, lines 30-72).

Whiteis teaches the deflection gauge system comprising: an elongate deflection gauge (10) for measuring a minimum diameter of a lumen of a pipe; and impacting means (12) on the deflection gauge for impacting against the deflection gauge to dislodge the deflection gauge from a lodged condition in the lumen of the pipe (Col 3, lines 30-72).

Whiteis teaches the deflection gauge system wherein the impacting means includes sliding means for freely sliding with respect to the deflection gauge (Col 2, lines 21-47).

Whiteis teaches the deflection gauge system wherein the impacting means includes limiting means (40, 42) for limiting sliding of the sliding means with respect to the deflection gauge.

Whiteis teaches the deflection gauge system wherein the limiting means impacts the deflection gauge when the limiting means limits sliding of the sliding means with respect to the deflection gauge (Col 2, lines 40-65 and Figs. 4 and 5).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whiteis in view of Crane et al. (U. S. Patent No. 4,766,631).

Whiteis discloses the deflection gauge with a dislodging system as described above in paragraph 3 and wherein each of the hooks comprises a closed loop (Fig. 1).

Whiteis does not disclose a deflection gauge with a dislodging system wherein the skid members having opposite ends, which are mounted, on the end plates.

Crane et al. discloses a deflection gauge (22) with a dislodging system (14, 15) wherein the skid members (22) having opposite ends (Figs. 1 and 4), which are mounted, on the end plates (24, 26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the skids of Whiteis to extend the length of the distance between the end plates, as taught by Crane et al., in order to increase the surface area of the skids which would also increase the ability of the skids to clear the lumen of the pipe.

Response to Arguments

6. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose deflection gauges and dislodging means Hahn (U. S. Patent No. 5,966,768), Salecker (U. S. Patent No. 5,379,476), Jones (U. S. Patent No. 1,972,402), and Maier (U. S. Patent No. 1,134,342).

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (703) 305-4972. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3431.

ARC
March 31, 2003



Diego Gutierrez
Supervisory Examiner
Tech Center 2800